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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,252	04/18/2000	Adolf Brodbeck	(K) 53 928	1754
7590 M Robert Kestenbaum 11011 Bermuda Dunes NE Albuquerque, NM 87111				
EXAMINER DEXTER, CLARK F				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
12/08/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/551,252

Applicant(s)

BRODBECK ET AL.

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 20, 22-25, 29, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 18, 20, 22-25, 29, 39 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed on August 5, 2009 has been entered. Due to the allowability of independent claim 39, the remaining withdrawn claims dependent therefrom have been **rejoined**. Upon further review, additional informalities have been discovered as described below.

Drawings

2. The drawings were received on August 5, 2009. These drawings are acceptable.

Claim Objections

3. Claims 18, 20, 22-25, 29, 39 and 40 are objected to because of the following informalities:

In claim 39, line 6, "having" is not sufficiently clear as to what it refers, and in lines 6-7, "driving element" is not sufficiently clear as to what disclosed feature it refers, and it is suggested in line 6 to change "having a driving" to --said ejector having a coupling--; in line 7, "engaging" should be changed to --engage--; in line 12, a comma --,-- should be inserted after "ejector position" for clarity; in line 13, a comma --,-- should be inserted after "slide" for clarity; in line 14, "an ejector" should be changed to --the ejector-- since the term "ejector position" has already been set forth; in line 15, "driving"

should be changed to --coupling--; in line 16, "sleeve or sleeves" is not sufficiently clear as to which one(s), and it should be changed to --tubular sleeves--.

Dependent claim 20 is redundant with respect to claim 39 from which it depends and should be **canceled**.

Dependent claims 22-25 have numerous informalities including antecedent basis issues, and it is suggested to rewrite these claims as follows:

-- 22. (Currently amended) The apparatus according to claim 39, wherein a cutting knife of the ~~at least one~~ cutting tool is fixedly or rotatably arranged on a mounting of said slide ~~slide~~, ~~said rotatable arrangement having a roller bearing~~.

23. (Currently amended) The apparatus according to claim 22 ~~[[39]]~~, wherein ~~[[a]]~~ the rotatably arranged cutting knife ~~of at least one cutting tool~~ is arranged free wheeling.

24. (Currently amended) The apparatus according to claim 22 ~~[[39]]~~, wherein ~~[[a]]~~ the rotatably arranged cutting knife ~~of the at least one cutting tool is rotatable and is~~ driven by a motor with a preselectable rotation speed.

25. (Currently amended) The apparatus according to claim 39, further comprising a flange mounted to said slide, wherein said ~~at least one~~ cutting tool is resiliently, compliantly mounted to ~~[[in]]~~ said flange against a feed movement of said cutting tool ~~[[knife]]~~.--.

Appropriate correction is required.

Allowable Subject Matter

4. Claims 18, 20, 22-25, 29, 39 and 40 are allowable over the prior art of record.

Remarks

5. Applicant is invited to contact the Examiner to make the above changes by Examiner's amendment.

Conclusion

6. This application is in condition for allowance except for the formal matters described above. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
December 7, 2009